

Comparison of Title 18 Sexual Offenses and UCMJ Sexual Offenses

| <i>Title 18 Offense¹</i> | <i>Similar UCMJ Offense</i> |
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| Aggravated Sexual Abuse—18 USC 2241 | Rape—Article 120 Sodomy (By Force)—Article 125 Indecent Assault—Article 134 |
| Sexual Abuse—18 USC 2242 | Rape—Article 120 Sodomy (By Force)—Article 125 Indecent Assault—Article 134 |
| Sexual Abuse of a Minor—18 USC 2243 - Unlike UCMJ, it is not a crime to have sexual intercourse with a minor between the ages of 12-15 by adults who are within 4 years of age of the victim (e.g., young service members who have sexual intercourse with dependent high school children who are less than 4 years younger). | Carnal Knowledge—Article 120 Sodomy (w/Child under 16)—Article 125 Indecent Acts w/Child—Article 134 |
| Sexual Abuse of a Ward—18 USC 2243 | Not specifically proscribed by UCMJ or MCM; may be charged as either an Article 92 offense (violation of a general order), an Article 134 offense—General Offense (Clause 1 or 2), or an Article 134— Crimes and Offenses of Unlimited Application (Clause 3). Note: Proposed MCM change would allow the military to reach similar conduct as “sex-related offenses”—Article 134 |
| Abusive Sexual Contact—18 USC 2244 - Section 2244(b) includes the concept of “without permission,” which is similar to the “without consent” criterion. | Indecent Act—Article 134 Indecent Acts with a Child—Article 134 |
| Prostitution Near Military and Naval Establishments—18 USC 1384 (Note: Offenses are not proscribed by Title 18 unless they are near military or naval establishments) | Pandering and Prostitution—Article 134 - Unlike title 18, military is proposing a specific offense of “Patronizing a Prostitute – Article 134 |
| Sexual Exploitation and Other Abuse of Children—18 USC, Chapter 110 (Child Pornography) | Crimes and Offenses of Unlimited Application—Article 134 (General Article, Clause 3) (e.g. child pornography) ² |

¹ Many sexual abuse offenses under title 18, United States Code, have statutory punishments to confinement that are significant lower than what the UCMJ authorizes. (e.g., compare 2-year confinement punishment for fondling a 12-year-old child’s breast under 18 USC § 2244(b) with the 7-year confinement authorized for similar misconduct under Article 134, UCMJ.

² In addition to the UCMJ’s flexibility allowing for the assimilation of other Federal and State laws under Article 134, as applicable, the UCMJ allows for any other misconduct of a sexual nature not specifically enumerated to be charged as a violation of Article 134 when it is considered to be prejudicial to good order and discipline or service-discrediting.

Comparison of UCMJ Sexual Offenses and Title 18 Sexual Offenses

| <i>UCMJ Offense</i> | <i>Similar Title 18 Offense³</i> |
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| Rape—Article 120 | Aggravated Sexual Abuse—18 USC 2241 <ul style="list-style-type: none"> • By force/threat of death, serious bodily injury, or kidnapping • By other means • Victim under 12 Sexual Abuse—18 USC 2242 <ul style="list-style-type: none"> • threat less than of death, serious bodily injury, or kidnapping |
| Carnal Knowledge—Article 120 | <ul style="list-style-type: none"> • If victim is under 12, Aggravated Sexual Abuse—18 USC 2241 • If victim is at least 12 but under 16, Sexual Abuse of a Minor—18 USC 2243 |
| Sodomy (By Force)—Article 125 | Aggravated Sexual Abuse—18 USC 2241 Sexual Abuse—18 USC 2242 |
| Sodomy (w/Child under 16)—Article 125 | <ul style="list-style-type: none"> • If victim is under 12, Aggravated Sexual Abuse—18 USC 2241 • If victim is at least 12 but under 16, Sexual Abuse of a Minor—18 USC 2243 <p>- Unlike UCMJ, it is not a crime to have sexual intercourse with a minor between the ages of 12-15 by adults who are within 4 years of age of the victim (e.g., young service members who have sexual intercourse with dependent high school children who are less than 4 years younger).</p> |
| Sodomy (No Force/No Child)—Article 125 | Not Proscribed* |
| Sodomy (w/Animal)—Article 125 | Not Proscribed* |
| Adultery—Article 134 | Not Proscribed* |
| Indecent Assault—Article 134 | Aggravated Sexual Abuse—18 USC 2241 Sexual Abuse—18 USC 2242 Abusive Sexual Contact—18 USC 2244 <p>- Section 2244(b) includes the concept of “without permission,” which is similar to the “without consent” criterion.</p> |
| Indecent Acts w/Child—Article 134 | <ul style="list-style-type: none"> • If direct touching of “sexual body part” and victim under 12, Aggravated Sexual Abuse— |

³ Many sexual abuse offenses under title 18, United States Code, have statutory punishments to confinement that are significant lower than what the UCMJ authorizes. (e.g., compare 2-year confinement punishment for fondling a 12-year-old child’s breast under 18 USC § 2244(b) with the 7-year confinement authorized for similar misconduct under Article 134, UCMJ.

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| | 18 USC 2241 <ul style="list-style-type: none"> • If direct touching of “sexual body part” and victim at least 12 but under 16, Sexual Abuse of a Minor—18 USC 2243 • If indirect touching of “sexual body part,” Abusive Sexual Contact—18 USC 2244 |
| Indecent Liberties w/Child—Article 134 (e.g. masturbating in the presence of a child) | Not Proscribed* |
| Indecent Exposure—Article 134 | Not Proscribed* |
| Indecent Language—Article 134 | Not Proscribed* |
| Indecent Acts w/Another—Article 134 (e.g. public sex) | Not Proscribed* |
| Pandering and Prostitution—Article 134 - Unlike title 18, military is proposing a specific offense of “Patronizing a Prostitute – Article 134 ⁴ | Prostitution Near Military and Naval Establishments—18 USC 1384 (Note: Offenses are not proscribed by Title 18 unless they are near military or naval establishments) |

*Federal officials would ostensibly look to military or state to prosecute

⁴ In addition to the UCMJ’s flexibility allowing for the assimilation of other Federal and State laws under Article 134, as applicable, the UCMJ allows for any other misconduct of a sexual nature not specifically enumerated to be charged as a violation of Article 134 when it is considered to be prejudicial to good order and discipline or service-discrediting.